

Consumer Product Safety Commission

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§ 1102.44 Applicability of sections 6(a) and (b) of the CPSA.

(a) *Generally.* Sections 6(a) and 6(b) of the CPSA shall not apply to the submission, disclosure, and publication of information provided in a report of harm that meets the minimum requirements for publication in § 1102.10(d) in the Database.

(b) *Limitation on construction.* Section 1102.44(a) shall not be construed to exempt from the requirements of sections 6(a) and 6(b) of the CPSA information received by the Commission pursuant to:

- (1) Section 15(b) of the CPSA; or
- (2) Any other mandatory or voluntary reporting program established between a retailer, manufacturer, or private labeler and the Commission.

PART 1105—CONTRIBUTIONS TO COSTS OF PARTICIPANTS IN DEVELOPMENT OF CONSUMER PRODUCT SAFETY STANDARDS

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AUTHORITY: Sec. 7(c), Pub. L. 97-35, 95 Stat. 704 (15 U.S.C. 2056(c)).

SOURCE: 48 FR 57121, Dec. 28, 1983, unless otherwise noted.

§ 1105.1 Purpose.

The purpose of this part is to describe the factors the Commission considers when determining whether or not to contribute to the cost of an individual, a group of individuals, a public or private organization or association, partnership or corporation (hereinafter “participant”) who participates with the Commission in developing standards. The provisions of this part do not apply to and do not affect the Commission’s ability and authority to contract

with persons or groups outside the Commission to aid the Commission in developing proposed standards.

§ 1105.2 Factors.

The Commission may agree to contribute to the cost of a participant who participates with the Commission in developing a standard in any case in which the Commission determines:

- (a) That a contribution is likely to result in a more satisfactory standard than would be developed without a contribution; and
- (b) That the participant to whom a contribution is made is financially responsible.

§ 1105.3 A more satisfactory standard.

In considering whether a contribution is likely to result in a more satisfactory standard, the Commission shall consider:

- (a) The need for representation of one or more particular interests, expertise, or points of view in the development proceeding; and
- (b) The extent to which particular interests, points of view, or expertise can reasonably be expected to be represented if the Commission does not provide any financial contribution.

§ 1105.4 Eligibility.

In order to be eligible to receive a financial contribution, a participant must request in advance a specific contribution with an explanation as to why the contribution is likely to result in a more satisfactory standard than would be developed without a contribution. The request for a contribution shall contain, to the fullest extent possible and appropriate, the following information:

- (a) A description of the point of view, interest and/or expertise that the participant intends to bring to the proceeding;
- (b) The reason(s) that representation of the participant’s interest, point of view, or expertise can reasonably be expected to contribute substantially to a full and fair determination of the issues involved in the proceeding;
- (c) An explanation of the economic interest, if any, that the participant has (and individuals or groups comprising the participant have) in any

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Commission determination related to the proceeding;

(d) A discussion, with supporting documentation, of the reason(s) a participant is unable to participate effectively in the proceeding without a financial contribution;

(e) A description of the participant's employment or organization, as appropriate; and

(f) A specific and itemized estimate of the costs for which the contribution is sought.

§ 1105.5 Applications.

Applications must be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, within the time specified by the Commission in its FEDERAL REGISTER notice beginning the development proceeding.

§ 1105.6 Criteria.

The Commission may authorize a financial contribution only for participants who meet all of the following criteria:

(a) The participant represents particular interest, expertise or point of view that can reasonably be expected to contribute substantially to a full and fair determination of the issues involved in the proceeding;

(b) The economic interest of the participant in any Commission determination related to the proceeding is small in comparison to the participant's costs of effective participation in the proceeding. If the participant consists of more than one individual or group, the economic interest of each of the individuals or groups comprising the participant shall also be considered, if practicable and appropriate; and

(c) The participant does not have sufficient financial resources available for effective participation in the proceeding, in the absence of a financial contribution.

§ 1105.7 Limits on compensation.

The Commission may establish a limit on the total amount of financial compensation to be made to all participants in a particular proceeding and may establish a limit on the total amount of compensation to be made to

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any one participant in a particular proceeding.

§ 1105.8 Costs must be authorized and incurred.

The Commission shall compensate participants only for costs that have been authorized and only for such costs actually incurred for participation in a proceeding.

§ 1105.9 Itemized vouchers.

The participant shall be paid upon submission of an itemized voucher listing each item of expense. Each item of expense exceeding \$15 must be substantiated by a copy of a receipt, invoice, or appropriate document evidencing the fact that the cost was incurred.

§ 1105.10 Reasonable costs.

The Commission shall compensate participants only for costs that it determines are reasonable. As guidelines in these determinations, the Commission shall consider market rates and rates normally paid by the Commission for comparable goods and services, as appropriate.

§ 1105.11 Compensable costs.

The Commission may compensate participants for any or all of the following costs:

(a) Salaries for participants or employees of participants;

(b) Fees for consultants, experts, contractual services, and attorneys that are incurred by participants;

(c) Transportation costs;

(d) Travel-related costs such as lodging, meals, tipping, telephone calls; and

(e) All other reasonable costs incurred, such as document reproduction, postage, baby-sitting, and the like.

§ 1105.12 Advance contributions.

The Commission may make its contribution in advance upon specific request, and the contribution may be made without regard to section 3648 of the Revised States of the United States (31 U.S.C. 529).

§ 1105.13 Noncompensable costs.

The items of cost toward which the Commission will not contribute include:

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(a) Costs for the acquisition of any interest in land or buildings;

(b) Costs for the payment of items in excess of the participant's actual cost; and

(c) Costs determined not to be allowable under generally accepted accounting principles and practices or part 1-15, Federal Procurement Regulations (41 CFR part 1-15).

§ 1105.14 Audit and examination.

The Commission and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers and records of a participant receiving compensation under this section. The Commission may establish additional guidelines for accounting, recordkeeping, and other administrative procedures with which participants must comply as a condition of receiving a contribution.

PART 1107—TESTING AND LABELING PERTAINING TO PRODUCT CERTIFICATION

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AUTHORITY: 15 U.S.C. 2063, Sec. 3, 102 Pub. L. 110-314, 122 Stat. 3016, 3017, 3022.

SOURCE: 76 FR 69541, Nov. 8, 2011, unless otherwise noted.

EFFECTIVE DATE NOTE: At 76 FR 69541, Nov. 8, 2011, part 1107 was added, effective Feb. 13, 2013.

Subpart A—General Provisions

§ 1107.1 Purpose.

This part establishes the protocols and standards for ensuring continued testing of children's products periodically and when there has been a material change in the product's design or manufacturing process and safeguarding against the exercise of undue influence by a manufacturer on a third party conformity assessment body. It also establishes a program for labeling of consumer products to indicate that the certification requirements have been met pursuant to sections 14(a)(2) and (i)(2)(B) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2063(a)(2) and (i)(2)(B)).

§ 1107.2 Definitions.

Unless otherwise stated, the definitions of the Consumer Product Safety Act and the Consumer Product Safety Improvement Act of 2008 apply to this part. The following definitions apply for purposes of this part:

CPSA means the Consumer Product Safety Act.

CPSC means the Consumer Product Safety Commission.

Due care means the degree of care that a prudent and competent person engaged in the same line of business or endeavor would exercise under similar circumstances. Due care does not permit willful ignorance.

High degree of assurance means an evidence-based demonstration of consistent performance of a product regarding compliance based on knowledge of a product and its manufacture.

Identical in all material respects means there is no difference with respect to compliance to the applicable rules, bans, standards, or regulations between the samples to be tested for compliance and the finished product distributed in commerce.

Manufacturer means the parties responsible for certification of a consumer product pursuant to 16 CFR part 1110.

Manufacturing process means the techniques, fixtures, tools, materials, and personnel used to create the component parts and assemble a finished product.